



Virginia
Regulatory
Town Hall

Proposed Regulation
Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-680-10 et seq
Regulation Title:	Virginia Energy Assistance Program
Action Title:	Establish Cooling Assistance Component
Date:	February 20, 2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Virginia Energy Assistance Program, funded by the Low-Income Home Energy Assistance (LIHEA) Act, is a federal block grant with state flexibility in program administration. The regulatory change allows flexibility in adjusting the maximum eligibility income limit for applicants, establishes a Cooling Assistance component within the Virginia Energy Assistance Program, and requires mandatory participation in the Cooling Assistance component by all local departments.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory

or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Pursuant to §63.1-25 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.1-25>), the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The Virginia Energy Assistance Program is funded by a federal block grant through the Low-Income Home Energy Assistance (LIHEA) Act (<http://www.acf.dhhs.gov/programs/liheap/policy.htm>). The block grant gives flexibility to design program components and eligibility requirements within broad parameters established by the LIHEA Act.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The goal of the Low-Income Home Energy Assistance Program (LIHEAP) is to assist low-income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs.

The purpose of this regulation is:

1. to provide the program with flexibility to respond to federal funding fluctuations by adjusting the maximum income limit, not to exceed the maximum allowed by federal law;
2. to assist households with summer energy needs by establishing a Cooling Assistance component in the Virginia Energy Assistance Program. A Cooling component will serve the needs of those households with high-energy bills and those in need of cooling equipment to alleviate extreme temperatures inside homes of young children, the disabled, and the elderly; and
3. to require mandatory participation by all local departments.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The proposed regulation will:

1. provide the program with flexibility to respond to federal funding fluctuations by adjusting the maximum income limit, not to exceed the maximum allowed by federal law;
2. add a Cooling Assistance component to the Virginia Energy Assistance Program. Extreme summer temperatures have increased energy costs of low-income households, and the lack of cooling equipment in homes creates an environment conducive to heat related medical emergencies for young children, the disabled, and the elderly; and
3. require mandatory participation by all local departments.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The regulation establishes a Cooling Assistance component that provides low-income households containing a vulnerable person with a means of supplementing the additional costs associated with cooling their homes. Utilities and local businesses will benefit from revenue for services and/or equipment purchased. Local departments of social services, area agencies on aging and community action programs will have an additional resource available to families faced with social service or health related issues.

Limited administrative funds and the mandatory requirement that all local departments participate in a Cooling Assistance component are disadvantages to the localities. Most local departments currently opt to participate based on their remaining administrative funds. Use of LIHEAP funds for administration are capped at ten percent of the grant. Of that amount, seven percent is allocated to local departments for administering all components of the Virginia Energy Assistance Program. Some local departments experience difficulty in stretching their administrative allocation to cover all components for the entire fiscal year.

Mandatory participation in the Cooling Assistance component by all local departments is an advantage to residents statewide and insures that all types of energy assistance are equally available to residents of neighboring localities.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget

activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

The state will not incur any costs due to 100 percent federal funding from LIHEAP. Allocation to the component can be predetermined based on available federal funding. Localities may bear a cost if their administrative allocation is expended prior to cooling component implementation. The cooling component is currently optional for localities, and they choose not to offer it if their administrative allocation is depleted. Approximately 134 local retail businesses, service providers and utility companies will benefit from the revenue made available through this component. Low-income households with vulnerable members will benefit by acquiring equipment or repairs otherwise unavailable due to costs; defraying high-energy costs during peak electricity usage; and reducing heat-related medical problems.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

Part II. B. 1. of the current regulation sets the maximum income limit at or below 130 percent of poverty guidelines. The proposed regulation allows the program to adjust the maximum income limit, in response to federal funding fluctuations, not to exceed the maximum allowed by federal law.

Part IV. of the current regulation is moved and now labeled Part V. There are no changes made to the language of this section.

There is no current regulation for Cooling Assistance. Part IV. of the proposed regulation establishes the Cooling Assistance component and defines the purpose, the eligibility criteria, the benefits, and the application period.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Significant increases in the cost of home heating fuels have resulted in more persons seeking assistance to pay those bills. The state Energy Assistance staff solicited input from regional program staff and local agency staff. A survey of local departments of social services supports

the need for a summer Cooling Assistance component because such assistance ensures a better quality of life for Virginia's low-income citizens.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No public comments were received during the NOIRA.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency reviewed the language of the regulation and determined that it is clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The agency will review the regulation at the conclusion of the third Energy Assistance Program year following the effective date of the regulation. The specific and measurable goals the proposed regulation is intended to achieve are improvement in eligibility criteria allowing households with increased energy costs easier access to benefits and provision to assist households with their summer energy needs.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The planned regulation has a positive impact on the family. The regulation encourages economic self-sufficiency by assisting families with unexpected increases in utility energy bills, and supports commitment to healthy children, disabled and elderly persons by helping to offset

the unprecedented energy price increases. The regulation will not impact the authority and rights of parents or marital commitment.